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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HENDRIK BLOCK,

Plaintiff,

vs.

SUKHDEEP KAUR MINHAS dba LIL
BROWN JUG; NAVDEEP SINGH dba LIL
BROWN JUG; PATRICK C. MAZZEI;
MICHAEL J. MAZZEI; DANIEL S.
MAZZEI;

Defendants.

) No.
)
) **COMPLAINT ASSERTING DENIAL OF**
) **RIGHT OF ACCESS UNDER THE**
) **AMERICANS WITH DISABILITIES ACT**
) **FOR INJUNCTIVE RELIEF,**
) **DECLARATORY RELIEF, DAMAGES,**
) **ATTORNEYS' FEES AND COSTS (ADA)**
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I. SUMMARY

1. This is a civil rights action by plaintiff HENDRIK BLOCK ("Plaintiff") for discrimination at the building, structure, facility, complex, property, land, development, and/or surrounding business complex known as:

Lil Brown Jug
957 Clovis Avenue
Clovis, California 93612
(hereafter "the Facility")

2. Plaintiff seeks damages, injunctive and declaratory relief, attorney fees and costs, against SUKHDEEP KAUR MINHAS dba LIL BROWN JUG; NAVDEEP SINGH dba LIL BROWN JUG; PATRICK C. MAZZEI; MICHAEL J. MAZZEI and DANIEL S.

1 MAZZEI (hereinafter collectively referred to as “Defendants”), pursuant to Title III of the
2 Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) (“ADA”) and related
3 California statutes.

4 **II. JURISDICTION**

5 3. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343 for ADA
6 claims.

7 4. Supplemental jurisdiction for claims brought under parallel California law –
8 arising from the same nucleus of operative facts – is predicated on 28 U.S.C. § 1367.

9 5. Plaintiff’s claims are authorized by 28 U.S.C. §§ 2201 and 2202.

10 **III. VENUE**

11 6. All actions complained of herein take place within the jurisdiction of the United
12 States District Court, Eastern District of California, and venue is invoked pursuant to 28 U.S.C.
13 § 1391(b), (c).

14 **IV. PARTIES**

15 7. Defendants own, operate, and/or lease the Facility, and consist of a person (or
16 persons), firm, and/or corporation.

17 8. Plaintiff is substantially limited in his ability to walk, and must use a cane,
18 walker, wheelchair or electric scooter for mobility. Consequently, Plaintiff is “physically
19 disabled,” as defined by all applicable California and United States laws, and a member of the
20 public whose rights are protected by these laws.

21 **V. FACTS**

22 9. The Facility is open to the public, intended for non-residential use, and its
23 operation affects commerce. The Facility is therefore a public accommodation as defined by
24 applicable state and federal laws.

25 10. Plaintiff is a resident of Madera County, California who travels to the area
26 where the Facility is located for weekly errands, medical appointments, and shopping trips. He
27 visited the Facility on or about August 1, 2022 to purchase snacks. During his visit to the
28 Facility, Plaintiff personally encountered barriers (both physical and intangible) that interfered

1 with, if not outright denied, Plaintiff's ability to use and enjoy the goods, services, privileges
2 and accommodations offered at the Facility. These barriers include, but are not necessarily
3 limited to, the following:

- 4 a) Plaintiff parked in the designated accessible parking space in the
5 Facility's parking lot. He had difficulty transferring to his wheelchair
6 because the surface of the parking stall was not level.
- 7 b) There was damaged pavement adjacent to the Facility entrance threshold
8 which created a large change in level that was difficult for Plaintiff to
9 wheel over.
- 10 c) The Facility's aisles lacked sufficient clear width making it difficult for
11 Plaintiff to navigate through the aisles. Additionally, the flooring surface
12 was damaged, with large gaps in the tile which caught on Plaintiff's
13 wheels. Upon Plaintiff entering, the cashier told him to "be careful" in
14 the store, but did not offer any help. When Plaintiff attempted to wheel
15 down the aisles holding merchandise on his lap, he ran over one of the
16 flooring gaps which jostled him, causing his items to fall on the floor
17 which was embarrassing.

18 11. There may exist other barriers at the Facility which relate to Plaintiff's
19 disabilities, and he will seek to amend this Complaint once such additional barriers are
20 identified as it is Plaintiff's intention to have all barriers which exist at the Facility and relate to
21 his disabilities removed to afford him full and equal access.

22 12. Plaintiff was, and continues to be, deterred from visiting the Facility because
23 Plaintiff knows that the Facility's goods, services, facilities, privileges, advantages, and
24 accommodations were and are unavailable to Plaintiff due to Plaintiff's physical disabilities.
25 Plaintiff enjoys the goods and services offered at the Facility, and will return to the Facility
26 once the barriers are removed.

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13. Defendants knew, or should have known, that these elements and areas of the Facility were inaccessible, violate state and federal law, and interfere with (or deny) access to the physically disabled. Moreover, Defendants have the financial resources to remove these barriers from the Facility (without much difficulty or expense), and make the Facility accessible to the physically disabled. To date, however, Defendants refuse to either remove those barriers or seek an unreasonable hardship exemption to excuse non-compliance.

14. At all relevant times, Defendants have possessed and enjoyed sufficient control and authority to modify the Facility to remove impediments to wheelchair access and to comply with the 1991 ADA Accessibility Guidelines and/or the 2010 ADA Standards for Accessible Design. Defendants have not removed such impediments and have not modified the Facility to conform to accessibility standards. Defendants have intentionally maintained the Facility in its current condition and have intentionally refrained from altering the Facility so that it complies with the accessibility standards.

15. Plaintiff further alleges that the (continued) presence of barriers at the Facility is so obvious as to establish Defendants' discriminatory intent. On information and belief, Plaintiff avers that evidence of this discriminatory intent includes Defendants' refusal to adhere to relevant building standards; disregard for the building plans and permits issued for the Facility; conscientious decision to maintain the architectural layout (as it currently exists) at the Facility; decision not to remove barriers from the Facility; and allowance that Defendants' property continues to exist in its non-compliant state. Plaintiff further alleges, on information and belief, that the Facility is not in the midst of a remodel, and that the barriers present at the Facility are not isolated or temporary interruptions in access due to maintenance or repairs.

VI. FIRST CLAIM

Americans with Disabilities Act of 1990

Denial of “Full and Equal” Enjoyment and Use

16. Plaintiff re-pleads and incorporates by reference the allegations contained in each of the foregoing paragraphs, and incorporates them herein as if separately re-pled.

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1 17. Title III of the ADA holds as a “general rule” that no individual shall be
2 discriminated against on the basis of disability in the full and equal enjoyment (or use) of
3 goods, services, facilities, privileges, and accommodations offered by any person who owns,
4 operates, or leases a place of public accommodation. 42 U.S.C. § 12182(a).

5 18. Defendants discriminated against Plaintiff by denying Plaintiff “full and equal
6 enjoyment” and use of the goods, services, facilities, privileges and accommodations of the
7 Facility during each visit and each incident of deterrence.

8 Failure to Remove Architectural Barriers in an Existing Facility

9 19. The ADA specifically prohibits failing to remove architectural barriers, which
10 are structural in nature, in existing facilities where such removal is readily achievable. 42
11 U.S.C. § 12182(b)(2)(A)(iv).

12 20. When an entity can demonstrate that removal of a barrier is not readily
13 achievable, a failure to make goods, services, facilities, or accommodations available through
14 alternative methods is also specifically prohibited if these methods are readily achievable. *Id.*
15 § 12182(b)(2)(A)(v).

16 21. Here, Plaintiff alleges that Defendants can easily remove the architectural
17 barriers at the Facility without much difficulty or expense, that the cost of removing the
18 architectural barriers does not exceed the benefits under the particular circumstances, and that
19 Defendants violated the ADA by failing to remove those barriers, when it was readily
20 achievable to do so.

21 22. In the alternative, if it was not “readily achievable” for Defendants to remove
22 the Facility’s barriers, then Defendants violated the ADA by failing to make the required
23 services available through alternative methods, which are readily achievable.

24 Failure to Design and Construct an Accessible Facility

25 23. Plaintiff alleges on information and belief that the Facility was designed and
26 constructed (or both) after January 26, 1993 – independently triggering access requirements
27 under Title III of the ADA.

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24. The ADA also prohibits designing and constructing facilities for first occupancy after January 26, 1993, that aren't readily accessible to, and usable by, individuals with disabilities when it was structurally practicable to do so. 42 U.S.C. § 12183(a)(1).

25. Here, Defendants violated the ADA by designing and constructing (or both) the Facility in a manner that was not readily accessible to the physically disabled public – including Plaintiff – when it was structurally practical to do so.¹

Failure to Make an Altered Facility Accessible

26. Plaintiff alleges on information and belief that the Facility was modified after January 26, 1993, independently triggering access requirements under the ADA.

27. The ADA also requires that facilities altered in a manner that affects (or could affect) its usability must be made readily accessible to individuals with disabilities to the maximum extent feasible. 42 U.S.C. § 12183(a)(2). Altering an area that contains a facility's primary function also requires making the paths of travel, bathrooms, telephones, and drinking fountains serving that area accessible to the maximum extent feasible. Id.

28. Here, Defendants altered the Facility in a manner that violated the ADA and was not readily accessible to the physically disabled public – including Plaintiff – to the maximum extent feasible.

Failure to Modify Existing Policies and Procedures

29. The ADA also requires reasonable modifications in policies, practices, or procedures, when necessary to afford such goods, services, facilities, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter their nature. 42 U.S.C. § 12182(b)(2)(A)(ii).

30. Here, Defendants violated the ADA by failing to make reasonable modifications in policies, practices, or procedures at the Facility, when these modifications were necessary to afford (and would not fundamentally alter the nature of) these goods, services, facilities, or accommodations.

¹ Nothing within this Complaint should be construed as an allegation that Plaintiff is bringing this action as a private attorney general under either state or federal statutes.

Failure to Maintain Accessible Features

31. Defendants additionally violated the ADA by failing to maintain in operable working condition those features of the Facility that are required to be readily accessible to and usable by persons with disabilities.

32. Such failure by Defendants to maintain the Facility in an accessible condition was not an isolated or temporary interruption in service or access due to maintenance or repairs.

33. Plaintiff seeks all relief available under the ADA (i.e., injunctive relief, attorney fees, costs, legal expense) for these aforementioned violations. 42 U.S.C. § 12205.

VII. SECOND CLAIM

Unruh Act

34. Plaintiff re-pleads and incorporates by reference the allegations contained in each of the foregoing paragraphs, and incorporates them herein as if separately re-pled.

35. California Civil Code § 51 states, in part, that: All persons within the jurisdiction of this state are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

36. California Civil Code § 51.5 also states, in part that: No business establishment of any kind whatsoever shall discriminate against any person in this state because of the disability of the person.

37. California Civil Code § 51(f) specifically incorporates (by reference) an individual's rights under the ADA into the Unruh Act.

38. Defendants' aforementioned acts and omissions denied the physically disabled public – including Plaintiff – full and equal accommodations, advantages, facilities, privileges and services in a business establishment (because of their physical disability).

39. These acts and omissions (including the ones that violate the ADA) denied, aided or incited a denial, or discriminated against Plaintiff by violating the Unruh Act.

40. Plaintiff was damaged by Defendants' wrongful conduct, and seeks statutory minimum damages of \$4,000 for each offense.

1 41. Plaintiff also seeks to enjoin Defendants from violating the Unruh Act (and
2 ADA), and recover reasonable attorneys' fees and costs incurred under California Civil Code
3 § 52(a).

4 **VIII. THIRD CLAIM**

5 **Denial of Full and Equal Access to Public Facilities**

6 42. Plaintiff re-pleads and incorporates by reference the allegations contained in
7 each of the foregoing paragraphs, and incorporates them herein as if separately re-pled.

8 43. Health and Safety Code § 19955(a) states, in part, that: California public
9 accommodations or facilities (built with private funds) shall adhere to the provisions of
10 Government Code § 4450.

11 44. Health and Safety Code § 19959 states, in part, that: Every existing (non-
12 exempt) public accommodation constructed prior to July 1, 1970, which is altered or
13 structurally repaired, is required to comply with this chapter.

14 45. Plaintiff alleges the Facility is a public accommodation constructed, altered, or
15 repaired in a manner that violates Part 5.5 of the Health and Safety Code or Government Code
16 § 4450 (or both), and that the Facility was not exempt under Health and Safety Code § 19956.

17 46. Defendants' non-compliance with these requirements at the Facility aggrieved
18 (or potentially aggrieved) Plaintiff and other persons with physical disabilities. Accordingly,
19 Plaintiff seeks injunctive relief and attorney fees pursuant to Health and Safety Code § 19953.

20 **IX. PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, for:

- 22 1. Injunctive relief, preventive relief, or any other relief the Court deems proper.
- 23 2. Statutory minimum damages under section 52(a) of the California Civil Code
24 according to proof.
- 25 3. Declaratory relief finding that Defendants violated the ADA.
- 26 4. Attorneys' fees, litigation expenses, and costs of suit.²

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28 ² This includes attorneys' fees under California Code of Civil Procedure § 1021.5.

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- 5. Interest at the legal rate from the date of the filing of this action.
- 6. For such other and further relief as the Court deems proper.

Dated: 02/13/2023 MOORE LAW FIRM, P.C.

/s/ Tanya E. Moore
Tanya E. Moore
Attorney for Plaintiff
Hendrik Block

VERIFICATION

I, HENDRIK BLOCK, am the plaintiff in the above-entitled action. I have read the foregoing Complaint and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe them to be true.

I verify under penalty of perjury that the foregoing is true and correct.

Dated: 2/13/2023

/s/ Hendrik Block

Hendrik Block

I attest that the original signature of the person whose electronic signature is shown above is maintained by me, and that his concurrence in the filing of this document and attribution of his signature was obtained.

/s/ Tanya E. Moore

Tanya E. Moore, Attorney for
Plaintiff, Hendrik Block